

## SENATE BILL NO. 105

INTRODUCED BY R. LAIBLE

BY REQUEST OF THE FIRE SUPPRESSION COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "VOLUNTEER FIREFIGHTER"; PROVIDING TAX INCENTIVES TO VOLUNTEER FIREFIGHTERS AND THEIR EMPLOYERS; REQUIRING GOVERNMENTAL VOLUNTEER FIRE AGENCIES TO MAINTAIN A VOLUNTEER FIREFIGHTER DATABASE; AMENDING SECTIONS 7-33-2001, 7-33-4104, AND 7-33-4110, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Definitions.** "Volunteer firefighter" means an individual who:

(1) is an active and enrolled member of a governmental volunteer fire agency organized under this chapter; and

(2) is not compensated for service as a firefighter.

**NEW SECTION. Section 2. Tax credit for volunteer firefighters.** (1) There is allowed a credit against the tax imposed by 15-30-103 for a volunteer firefighter, as defined in [section 1], if the individual provided at least 120 hours of service in the previous calendar year in the individual's capacity as a volunteer firefighter.

(2) (a) A volunteer firefighter meeting the requirements of this section may claim a credit based on the number of hours the individual, in a volunteer capacity, was:

(i) in training related to volunteer fire service;

(ii) on call; or

(iii) responding to calls.

(b) (i) The maximum tax credit is \$1,000 for an individual who volunteered 1,200 hours or more in the tax year.

(ii) For an individual who volunteered fewer than 1,200 hours in the tax year, the amount of the tax credit is calculated by dividing the number of hours volunteered by 1,200 and multiplying the resulting quotient by \$1,000.

(3) A maximum of 200 training hours may be counted each tax year toward the time requirements established in this section.

(4) If the amount of the credit exceeds the taxpayer's liability under this chapter, the amount of the excess must be refunded to the taxpayer. The credit may be claimed even if the taxpayer has no tax liability.

**NEW SECTION. Section 3. Deduction of support for volunteer firefighters.** (1) In computing net income, there is a deduction allowed from the gross income received by the corporation within the year from all sources when the corporation provides an employee who is a volunteer firefighter, as defined in [section 1], with time off from regularly scheduled work hours to respond to calls received by the governmental volunteer fire agency organized under this chapter with which the employee is affiliated on a volunteer basis.

(2) Each tax year, the corporation may deduct for each employee an amount based on the number of hours for which the employee received time off in the year to respond to calls, according to the following schedule:

- (a) \$500 for 400 to 470 hours;
- (b) \$400 for 300 to 399 hours;
- (c) \$300 for 200 to 299 hours;
- (d) \$200 for 100 to 199 hours; or
- (e) \$100 for up to 99 hours.

(3) To qualify for the deduction, the employer shall report the following information to the department:

- (a) the name of the employee;
- (b) the name of the governmental volunteer fire agency for which the employee volunteers time;
- (c) the dates and number of hours for which the employee was away from the job to respond to a call received by the governmental volunteer fire agency with which the employee is affiliated on a volunteer basis; and
- (d) confirmation from the governmental volunteer fire agency that the employee was responding to a call during the dates and hours reported by the employer.

**NEW SECTION. Section 4. Small business corporation and partnerships -- deduction for support of volunteer firefighter.** The deduction allowed in [section 3] for employers who provide time off to volunteer firefighters, as defined in [section 1], is available to a small business corporation, as defined in 15-30-1101, or

a partnership if the corporation or partnership meets the requirements of [section 3]. The deduction must be attributed to shareholders or partners using the same proportion that is used to report the corporation's or partnership's income or loss for Montana tax purposes.

**NEW SECTION. Section 5. Firefighter database.** (1) Each governmental volunteer fire agency organized under this chapter shall maintain a database of firefighters that contains the following information for each firefighter:

- (a) the individual's name;
- (b) the date the individual became affiliated with the agency;
- (c) the date the individual ended affiliation with the agency, if applicable;
- (d) the level of certification attained;
- (e) training courses taken and completed and the number of hours of training obtained each year; and
- (f) for a volunteer firefighter, as defined in [section 1], the number of hours:
  - (i) spent responding to calls; and
  - (ii) for which the individual was on call.

(2) The governmental volunteer fire agency shall provide the information required under subsection (1) to the department no later than January 15 of each year for information related to the previous calendar year for the purposes of confirming a tax credit claimed pursuant to [section 2].

**Section 6.** Section 7-33-2001, MCA, is amended to read:

**"7-33-2001. Fire chief -- powers and duties.** (1) A fire chief of a governmental fire agency organized under this chapter must be considered the highest ranking officer in the agency and is responsible for the operation of the agency, including but not limited to:

- (a) development and implementation of agency programs and procedures;
- (b) performance of agency personnel;
- (c) preventing outbreak of fires;
- (d) requirements for reporting information included in the volunteer firefighter database provided for in [section 5] if the agency is a governmental volunteer fire agency;
- ~~(d)~~(e) minimizing danger to persons and damage to property caused by fires; and
- ~~(e)~~(f) ensuring the provision and management of any emergency services that are established by the

1 agency and that are consistent with national and other appropriate standards. These services may include but  
2 are not limited to:

- 3 (i) fire suppression;
- 4 (ii) medical aid;
- 5 (iii) hazardous materials response;
- 6 (iv) ambulance service; and
- 7 (v) extrication from vehicles.

8 (2) In development of agency regulations, programs, and procedures, the fire chief is subject to  
9 applicable laws and ordinances.

10 (3) The fire chief serves under the direction of the governing body that has created the governmental  
11 fire agency.

12 (4) The fire chief shall develop organizational and operational procedures and shall implement those  
13 procedures by issuing written administrative regulations and operational guidelines.

14 (5) In the event of a fire or other emergency involving the protection of life or property, the fire chief has  
15 the authority to direct any operation necessary to extinguish or control the fire or perform a rescue in coordination  
16 with other authorities having jurisdiction.

17 (6) The fire chief may investigate suspected or reported fires, gas leaks, or other hazardous conditions  
18 and may take any action necessary to protect public health and safety and protect property or mitigate damage  
19 to property in the exercise of the chief's duties.

20 (7) In the exercise of the authority provided in subsections (5) and (6), the fire chief may:

- 21 (a) enter any property;
- 22 (b) prohibit any person, vehicle, or thing from approaching the scene;
- 23 (c) remove or cause to be removed from the scene of the fire or other emergency any person, vehicle,  
24 or thing that the chief determines may interfere with the operations of the agency.

25 (8) (a) Subject to 50-3-102(1)(c), the fire chief may investigate the cause, origin, and circumstances of  
26 every fire that occurs in the chief's jurisdiction that involves the loss of life, injury to a person, destruction of  
27 property, or damage to property.

28 (b) Subject to 50-3-102(1)(c), as part of the investigation, the fire chief may take immediate charge of  
29 all physical evidence relating to the cause of the fire and may pursue the investigation to its conclusion.

30 (c) The fire chief may investigate the cause, origin, and circumstances of unauthorized releases of

1 hazardous materials.

2 (9) (a) The fire chief may establish and maintain a program applicable to every community in the chief's  
3 jurisdiction that provides for:

4 (i) regular examination of fire hazards; and

5 (ii) regular inspection of commercial property, after the property has been approved for occupancy by a  
6 certified city, county, or town building code jurisdiction or the department of labor and industry's bureau of building  
7 and measurement standards, with particular emphasis on occupancies identified as high risk to life and property.

8 (b) The fire chief may establish a formal fire inspection program as authorized by the department of  
9 justice under 50-61-102.

10 (10) The fire chief shall report all fires to the department of justice and shall use the national fire incident  
11 reporting system or other reporting method approved by the department of justice's fire prevention and  
12 investigation section.

13 (11) The fire chief is responsible for establishing and maintaining a training program for the agency and  
14 may use existing federal, regional, state, and local training resources. The agency's program must include training  
15 in all areas of emergency response in which the agency provides services.

16 (12) For the purposes of this section, "governmental fire agency" does not include municipal fire  
17 departments."

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19 **Section 7.** Section 7-33-4104, MCA, is amended to read:

20 **"7-33-4104. Duties of chief and assistant chief of fire department.** (1) The chief of the fire department  
21 has sole command and control over all persons connected with the fire department of the city or town and has  
22 full power and authority over its organization, government, and discipline. The chief may establish disciplinary  
23 rules that the chief considers advisable, subject to the approval of the city or town council. The chief has charge  
24 of and is responsible for the engines and other apparatus and the property of the town or city furnished to the fire  
25 department and shall see that they are at all times ready for use in the extinguishing of fires.

26 (2) The assistant chief of the fire department shall aid the chief in the work of the department and in the  
27 chief's absence shall perform the chief's duties.

28 (3) The chief shall meet the requirements for reporting information included in the volunteer firefighter  
29 database provided for in [section 5] if the department is a governmental volunteer fire agency."

**Section 8.** Section 7-33-4110, MCA, is amended to read:

**"7-33-4110. Volunteer companies not affected. Nothing** Except as provided in 7-33-4104(3), nothing

contained in 7-33-4101 through 7-33-4104, 7-33-4106 through 7-33-4108, 7-33-4112, 7-33-4113, 7-33-4122 through 7-33-4125, and 7-33-4127 shall be held or construed to affect any fire organization known as a volunteer fire company."

NEW SECTION. **Section 9. Codification instruction.** (1) [Sections 1 and 5] are intended to be codified as an integral part of Title 7, chapter 33, and the provisions of Title 7, chapter 33, apply to [sections 1 and 5].

(2) [Sections 2 and 4] are intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, apply to [sections 2 and 4].

(3) [Section 3] is intended to be codified as an integral part of Title 15, chapter 31, part 1, and the provisions of Title 15, chapter 31, apply to [section 3].

**NEW SECTION.** **Section 10. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective October 1, 2009.

(2) [Section 5 and this section] are effective on passage and approval.

**NEW SECTION.** **Section 11. Applicability.** [Sections 2 through 4] apply to tax years beginning January 1, 2010.

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